

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Michigan Head and Spine Institute
Petitioner

File No. 21-1701

v

LM General Insurance Company
Respondent

Issued and entered
this 10th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 8 and 17, 2021, Michigan Head and Spine Institute (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of LM General Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on October 22 and 25, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 29, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 29, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent's reply to the appeal was received January 26, 2022 and was rejected as untimely.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 11, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy and manual therapy treatments rendered on August 23 and 30, 2021 and September 1 and 13, 2021. The Current Procedural Terminology (CPT) codes at issue include 97110, 97112, 97140, 97530, and 97012, which are described as therapeutic exercise, neuromuscular reeducation, manual therapy, functional performance activities, and mechanical traction, respectively. In its denials, the Respondent indicated that no additional clarifying information was submitted to support reimbursement for the rendered treatments. The Respondent explained that the “medical records did not support the request” and that the American College of Occupational and Environmental Medicine (ACOEM) guideline recommendations were exceeded in frequency and duration.

With its appeal request, the Petitioner submitted medical documentation which identified the injured person’s diagnoses as strain of the muscle, fascia, and tendons of the lower back and left shoulder pain. The Petitioner indicated that the injured person was involved in a motor vehicle accident in June 2019. The Petitioner stated that the appeal request was made to the Department “because auto is rejecting.” The Petitioner stated in its progress note from August 23, 2021 that the injured person had 8 therapy sessions since August 5, 2021. Following the examination, the Petitioner documented that the care plan for the injured person was 3 times per week for 5 weeks to progress toward meeting long-term functional goals.

III. ANALYSIS

Director’s Review

Under MCL 500.3157a(5), a provider may appeal an insurer’s determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was supported on the August 23, 2021 date of service based on medically accepted standards; but that medical necessity was not supported for dates of service August 30, September 1, or September 13, 2021.

The IRO reviewer is a medical doctor who is board-certified in physical medicine and rehabilitation with additional certification in electrodiagnostic medicine and acupuncture. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Official Disability Guidelines (ODG) practice guidelines for physical therapy and manual therapy and medical literature concerning physical medicine and rehabilitation practices for its recommendation.

The IRO reviewer explained that ODG recommends “9 physical therapy visits over 8 weeks or 6 manual therapy visits over 2 weeks for shoulder pain and back pain.” The IRO reviewer noted that on August 23, 2021, the injured person’s pain level in his low back was 5-7 on a 10-point scale. Regarding subsequent visits with the Petitioner, the IRO reviewer stated:

On 8/30/21 (visit 11), [the injured person’s] low back pain was 1-8/10. On 9/1/21 (visit 12), his back pain was 5/10 and his shoulder pain increased to 8/10 when reaching overhead. On 9/13/21 (visit 16), his pain level was 2-6/10 in the low back and 3-4/10 in the left shoulder. The medical records indicate that he also received physical therapy on the following dates: 8/25/21, 8/27/21, and 9/10/21 (visit 15).

The IRO reviewer opined that during the August 23, 2021 to September 13, 2021 time frame, “there was no documentation of significant improvement in pain levels, strength, range of motion or function.” However, the IRO reviewer explained that, according to ODG, “the physical and manual therapy on 8/23/21 is medically necessary, as it is visit number 8” and within the recommended guidelines for treatment of the injured person’s low back and shoulder pain.

However, the IRO reviewer stated that “the treatment with physical and manual therapy on 8/30/21 (visit 11), 9/1/21 (visit 12), and 9/13/21 (visit 16) are not medically necessary and would be considered over utilization according to the Official Disability Guidelines.”

The IRO reviewer recommended that the Director partially reverse the Respondent’s determination that the physical therapy and manual therapy treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses, in part, the Respondent’s October 22, 2021 determination regarding the August 23, 2021 date of service. The Director upholds the Respondent’s determination dated October 25, 2021.

The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the physical therapy and manual therapy treatments rendered on August 23, 2021, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969

PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford